

INDUSTRIAL RELATIONS AND OTHER LEGISLATION AMENDMENT (WORKPLACE PROTECTIONS) BILL 2025

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

In mid-2023, the Government announced the establishment of an Industrial Relations Taskforce to build a modern industrial relations framework for NSW. The Taskforce consulted 40 individuals and organisations that have a stake or interest in the NSW industrial relations system, or who could offer guidance to the Taskforce. A number of recommendations made by the Taskforce have already been made into law via the *Industrial Relations Amendment Act 2023*.

Following the re-establishment of the NSW Industrial Court in 2024, the Government made a commitment to introduce a further tranche of reforms to continue building an improved, more efficient industrial relations system. The Industrial Relations and Other Legislation Amendment (Workplace Protections) Bill 2025 would implement a broader range of the Taskforce's recommendations, including the introduction of an anti-bullying and sexual harassment workplace jurisdiction before the Industrial Relations Commission.

The work health and safety (WHS) reforms have been informed by public discourse including through Parliamentary inquiries, consultation with key stakeholders, and the experience of interstate jurisdictions where similar reforms have been enacted. The reforms are needed to strengthen the role of unions in upholding WHS standards, efficiently resolve WHS disputes in the workplace, and support SafeWork NSW to be a strong and accountable regulator.

Objectives: What is the policy's objective couched in terms of the public interest?

The overriding purpose of the Bill is to make amendments to the *Industrial Relations Act 1996* (IR Act) and other related legislation to continue building on the Government's commitment to provide workers with greater access to workplace justice and improved workplace health and safety.

The reforms in the Industrial Relations and Other Legislation Amendment (Workplace Protections) Bill 2025 include the establishment of new anti-bullying and sexual harassment jurisdictions before the Industrial Relations Commission; clarification of the Commission's powers during industrial disputes; amendments to strengthen the freedom from victimisation provisions; the consolidation of civil penalty provisions and measures to deliver stronger work health and safety protections for workers in NSW.

The WHS reforms aim to improve WHS standards in all workplaces to prevent workplace injuries and deaths. It does this by providing for the Industrial Relations Commission to deal with WHS disputes, making compliance with codes of practice mandatory, expanding the rights of entry permit holders to collect evidence of suspected WHS contraventions, enabling more prosecutions to be brought for WHS offences, and improving the regulator's access to information.

Options: What alternative policies and mechanisms were considered in advance of the bill?

In formulating its 49 recommendations, the Industrial Relations Taskforce consulted with a wide range of stakeholders and utilised its experience gained over many years in the field of industrial relations and workplace bargaining. All options were considered including no legislative change. In respect of the establishment of new anti-bullying and sexual harassment jurisdictions before the Industrial Relations Commission, consideration was given to the existing regulatory schemes, including under the *Fair Work Act 2009* (Cth), the *Sex Discrimination Act 1984* (Cth), and the *Anti-Discrimination Act 1977* (NSW).

The Bill before the House introduces four new civil penalty provisions to add to the existing civil penalties in the IR Act. Consideration was given to the existing civil penalty structure, and it was resolved that consolidating the provisions will make it easier for practitioners rather than having a number of discrete references to the relevant provisions interspersed in various parts of the IR Act. The amendments relating to the Commission's powers during industrial disputes are designed to clarify its powers and prevent and settle workplace disputes; and changes to the freedom from victimisation provisions will bolster the existing protections for workers.

The WHS reforms contained in the Bill were considered against the model laws, and the legislative frameworks of each other Australian jurisdiction. There were material differences in how jurisdictions have approached the matters addressed in the Bill. The Bill has primarily adopted approaches taken by Queensland in its WHS laws. Elements of South Australia's WHS laws have also informed the Bill. The experience of these jurisdictions on similar reforms informed the decision to prefer these approaches.

Analysis: What were the pros/cons and benefits/costs of each option considered?

All options were considered to determine effectiveness, ease of administration and unintended consequences. Workplace health and safety hazards, including bullying and sexual harassment, cause serious harm to worker health and to the organisations that employ the affected workers. The existing work health and safety frameworks, including for sexual harassment and bullying schemes, in other jurisdictions were considered and analysed when developing the rationale for the policy to be implemented in the NSW jurisdiction. This included the coverage/application of both of the federal schemes and their efficacy in preventing bullying and sexual harassment at the workplace and providing appropriate remedies.

The appropriateness of the existing provisions in the IR Act relating to civil penalties, principles of association and gender equality were also considered during the reform process to help build a modern industrial relations framework in NSW.

During the policy development, maintenance of the current legislative framework was compared with a range of possible legislative amendments, including for WHS disputes; the rights of entry permit holders; access to and disclosure of information by the regulator; ensuring the Industrial Relations Commission's powers during industrial disputes are clarified; and workers in NSW are protected to the greatest possible extent via the freedom from victimisation and proposed anti-bullying and sexual harassment schemes.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill proposes that Schedules 1[1], [3], [6], [9], [22], [23], [29]-[31], [39] [41], and Schedule 3 will commence on a day or days to be appointed by proclamation. All other provisions commence on the date of assent. The items that are due to commence upon proclamation will ensure there is a period of structured transition for industrial relations participants and appropriate administrative and logistical amendments made via the Bill will be conveyed to the relevant persons via JusticeLink where required.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Government has welcomed the views of stakeholders during the development of the Bill and ensured that where possible, those views were adopted.

During its review, the Industrial Relations Taskforce met and consulted with:

- NSW Government Agency Heads
- the Chief Justice of NSW
- a Judge at the NSW Civil and Administrative Tribunal, and
- employer groups and union organisations.

In addition, an Industrial Relations Implementation Group was convened which met with Ministerial Staff and officials from the Industrial Relations Branch of the Premier's Department throughout 2024/25.

Officers from the Industrial Relations Branch of the Premier's Department also actively engaged in consultation with relevant NSW Government agencies during the development of the Bill.